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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 5580 of 2007
Date of decision: 15.11.2007

Parshotam Kumar and another **...Petitioners**

Versus

Chander Bhan Gupta **...Respondent**

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Sanjiv Gupta, Advocate for the petitioner.

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RAJESH BINDAL, J.

The tenants are in revision petition before this Court against concurrent findings of fact by both the Courts below whereby their eviction has been ordered.

The respondent-landlord filed a petition for ejectment of the petitioners/tenants on the ground of personal necessity. The shop in dispute was rented out to the petitioners at the monthly rent of Rs. 2,500/-. The eviction of the petitioners from the shop in dispute was sought for bonafide necessity of sons of the respondent, who wanted to start business of electric and electronics goods and repair thereof in the said shop. There was no other shop in possession of the respondent in which such a business could be started. One of the sons of the respondent was holding a National Trade Certificate from the Department of Industry Training and Vocational Education, Haryana whereas another one was a graduate. At the time of filing of the petition, both the sons were unemployed and it was only during the pendency of the petition that one of the son has got employment as a teacher. In the another shop, which was owned by respondent, he was carrying on his own business and demised premises was required by him for bonafide need of his sons, who infact were already carrying on the business in a Chaubara of a shop. The only plea raised by the petitioners was that during the pendency of the petition one of the son had got employment, so need of landlord was not subsisting. Such a plea, in my view, has rightly

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been rejected by both the Courts below for the simple reason that the landlord or his sons are not supposed to sit idle till such time, the eviction proceedings attained finality. Still further even as per the stand of the petitioner, employment of one son has not eclipsed the necessity of landlord in its entirety as another son was admittedly available to carry on the business. Their bonafide desire to set up the business is evident from the fact that they were already carrying on the business at first floor of a shop. The landlord is owner of two shops. In one shop he was carrying on the business of sweets and the another shop i.e. demised premises he required for use and occupation of his sons. With these findings on record, I do not find any illegality had been committed by learned Courts below in recording the findings of fact that the need of the landlord was bonafide. Neither any error of jurisdiction had been pointed out nor any evidence which was misread or not considered by the Courts below.

I do not find any merit in the present petition and the same is dismissed.

At this stage, learned counsel for the petitioner states that petitioner is carrying on the business in the shop in question for the last many years. He may be granted some reasonable time to vacate the same and hand over physical possession thereof to the respondent-landlord. The prayer seems to be reasonable.

On an undertaking to be filed before the learned Rent Controller to the effect that the petitioner will hand over vacant physical possession of the shop in dispute to the respondent/landlord on or before April 30, 2008 and also that he will continue paying charges for use and occupation of the demise premises in advance for each month to the respondent, the petitioner shall be permitted to retain the possession thereof upto April 30, 2008. It is, however, made clear in case of failure, the respondent shall be entitled to initiate appropriate proceedings against the petitioner for violation of undertaing including Contempt proceeding.

November 15, 2007 **(Rajesh Bindal)**
Pka **Judge**